

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bavaria et al.	§	
	§	Group Art Unit: 2444
Serial No.: 10/631,056	§	
	§	Examiner: Ibrahim, Mohamed
Filed: July 31, 2003	§	
	§	Confirmation No.: 3503
For: Method and Apparatus for	§	
Performing Device Configuration	§	
Rediscovery	§	

35525

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

Commissioner for Patents
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REPLY BRIEF (37 C.F.R. 41.41)

This Reply Brief is submitted in response to the Examiner's Answer mailed on June 22, 2009.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

RESPONSE TO EXAMINER'S ANSWER

SUMMARY

To recap the Appeal Brief 35 USC 102 rejection arguments, there are at least three claimed features that are not identically shown in the cited reference.

First, the cited reference does not teach *moving* of configuration data upon occurrence of a device match. Instead, the cited reference describes a ‘using’ operation that is performed in response to a match. **Second**, the cited reference does not teach moving configuration data to *a different item* (a memory) *that was not the subject of the ‘match’ determination* (a device), but instead teaches that the same item (memory device) is initialized when this same item (memory device) is ‘matched’. Thus, both (1) the ‘operation’ performed (‘using’ per the cited reference versus ‘moving’ per Claim 1) and (2) the item/thing that the operation is performed upon (the same device as what was ‘matched’ per the teachings of the cited reference, versus a different item/thing (a memory) from what was ‘matched’ per Claim 1) are different between what is recited in Claim 1 and what is taught by the cited reference. **Third**, the cited reference does not teach a table having the same characteristics as the claimed table. Accordingly, as *every element* is not *identically shown and identically arranged* in a single reference, it is urged that Claim 1 is not anticipated by the cited reference.

RESPONSE TO EXAMINER’S RESONSE TO ARGUMENT

A) On page 9 of the Examiner Answer, the Examiner has mischaracterized the teachings of Kartoz. The Examiner states that:

“If the system founds (sic) the identification data and reference data to be a match then is proceeds **by moving the obtained reference initialization data and the reference identification data to non-volatile memory storage** (see col. 4, line 56-col. 5, line 15). Therefore, Kartoz indeed discloses the argued limitation as currently presented.” (emphasis added by Appellants)

Appellants will show that not only is this statement clearly untrue, but it also does not make technical sense. For example, if two items match why would you need to move both items (obtained reference initialization data; reference identification data) to non-volatile memory storage,

when one is a duplicate of the other (since they match) ?

Perhaps even more importantly, the cited passage at Kartoz col. 4, line 56-col. 5, line 15 does not describe *moving* the obtained reference initialization data and the reference identification data to non-volatile memory storage, as alleged by the Examiner. Instead, Kartoz states:

In particular, the method 70 during a quick bootpath step 86 obtains the current SPD data and stores it as reference initialization data and reference identification data and, when the method 70 checks at step 76 to determine whether or not the memory configuration has changed, it typically retrieves only current identification data from each of the memory devices 52 and compares the retrieved data with the reference identification data to determine whether or not the configuration of each memory device 52 has changed. **If the retrieved identification data and the reference identification data for all memory devices 52 match, then the method 70 uses the reference initialization data to initialize the memory devices 52.** Thus, in the method 70, a comprehensive memory discovery and initialization procedure as shown at step 84, is only carried out if the method 70 senses that there has been a change in the memory module identification data.
(Kartoz col. 4, line 56-col. 5, line 15)

As can be seen, this cited Kartoz passage describes that ‘reference initialization data’ is used to initialize the memory devices if the retrieved identification data matches the reference identification data. This cited passage does *not* describe “If the system founds (sic) the identification data and reference data to be a match then is proceeds by *moving the obtained reference initialization data and the reference identification data to non-volatile memory storage*” (emphasis added by Appellants), as erroneously alleged by the Examiner in rejecting Claim 1. In addition, and as previously described, it is not even clear why such action would even be performed if the two items (‘obtained reference identification data’ and ‘reference identification data’) match, since they are duplicative of one another and such moving of duplicative information would waste system resources and require unneeded system overhead.

Importantly, Kartoz is keen on performing a quickboot operation when a match occurs, where the processing steps that are performed are severely curtailed when a match occurs (Kartoz Col. 4, lines 2-16). There would be no reason for Kartoz to move the obtained reference initialization data and the reference identification data to non-volatile memory storage if a match occurs, as is erroneously alleged to be taught by Kartoz.

B) On page 9 of the Examiner Answer, the Examiner states that there is no structural difference between the claimed initialization table and the initialization table of Kartoz, that the only visible difference is the intended use of the table and what sort of data it stores, and that both the Kartoz reference and claimed invention uses the stored data in the table to configure and initialize hardware device. Therefore, concludes the Examiner, Kartoz meets the scope of the claim limitation.

Applicants urge that the Examiner's 'same use' analysis is clearly erroneous. Under such 'same use' analysis a motorcycle would anticipate a bicycle because they are both used for transportation. This is clearly not the state of the law regarding 35 USC 102 analyses.

Importantly, the claimed 'table' is very different from the Kartoz table. For example, the claimed table is associated with multiple devices (a table associated with the *configuration data for the set of devices*), whereas the Kartoz table is associated with a single device (the alleged Kartoz table is stored within the device itself, and is data *for that device* – see Kartoz col. 4, lines 44-47).

As yet another example, the Kartoz table cannot be used the way the claimed 'table' can be used, as the Kartoz table does not contain (i) an index used to locate particular configuration data for a *particular device*, (ii) information used to address the *particular device*, and (iii) an offset to a memory location within the *particular device* at which particular unique identifier information for the *particular device* is stored. Thus, the Kartoz table cannot be used to address the particular device, as such information (used to address the particular device) must *already be known by* Kartoz in order to locate and read the Kartoz table that is internally maintained within the device itself.

RESPONSE TO EXAMINER'S NON-RESPONSE TO ARGUMENT

It is also noteworthy that the Examiner fails to address any of the 35 USC 103 arguments, thereby implicitly acknowledging the validity of the errors pointed out by Appellants in their Appeal Brief.

Date: August 20, 2009

Respectfully submitted,

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